

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

| | |
|----------------------------------|-----------------------------|
| FAITH LABADIE, | : |
| | : |
| Plaintiff, | : 20-CV-722 (LJV)(LGF) |
| | : |
| v. | : DESIGNATION OF THE |
| | : |
| NU ERA TOWING AND SERVICE, INC., | : RECORD ON APPEAL |
| | : |
| Defendant. | : |

Plaintiff Faith Labadie hereby designates the documents circled in the accompanying printout of the docket sheet for inclusion on the Record on Appeal.

Dated: October 6, 2022

/s/ Brian L. Bromberg
Brian L. Bromberg
Bromberg Law Office, P.C.
Attorneys for Plaintiff Faith Labadie
352 Rutland Road #1
Brooklyn, New York 11225
Tel: (212) 248-7906
Fax: (212) 248-7908
Email: brian@bromberglawoffice.com

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CIVIL DOCKET FOR CASE #: 1:20-cv-00722-LJV-LGF

Labadie v. NU Era Towing and Service, Inc.
Assigned to: Hon. Lawrence J. Vilaro
Referred to: Hon. Leslie G. Foschio
Cause: 15:1692 Fair Debt Collection Act

Date Filed: 06/15/2020
Date Terminated: 08/24/2022
Jury Demand: Plaintiff
Nature of Suit: 480 Consumer Credit
Jurisdiction: Federal Question

Plaintiff

Faith Labadie

represented by **Brian L. Bromberg**
Bromberg Law Office, P.C.
352 Rutland Road #1
Brooklyn, NY 11225
212-248-7906
Fax: 212-248-7908
Email: brian@bromberglawoffice.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Seth Andrews
Law Offices of Kenneth Hiller, PLLC
6000 North Bailey Avenue
Suite 1A
Amherst, NY 14226
716-564-3288
Fax: 716-332-1884
Email: sandrews@kennethhiller.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kenneth R. Hiller
Law Offices of Kenneth Hiller
6000 North Bailey Avenue
Suite 1A
Amherst, NY 14226
(716) 564-3288
Fax: (716) 332-1884
Email: khiller@kennethhiller.com
ATTORNEY TO BE NOTICED

V.

Defendant

NU Era Towing and Service, Inc.

represented by **Daniel W. Gerber**

Gerber Ciano Kelly Brady
 350 Main Street
 Suite 2400
 Buffalo, NY 14202
 646-650-5155
 Email: dgerber@gerberciano.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Aaron Jacob Aisen

ECBA Volunteer Lawyers Project, Inc.
 8 South Lyons Street
 Batavia, NY 14020
 716-313-2080
 Email: aaisen@ecbavlp.com
TERMINATED: 09/30/2021

| Date Filed | # | Docket Text |
|------------|----------|--|
| 06/15/2020 | <u>1</u> | COMPLAINT against NU Era Towing and Service, Inc. \$ 400 receipt number 0209-3867578, filed by Faith Labadie. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Andrews, Seth) (Entered: 06/15/2020) |
| 06/16/2020 | | Case assigned to Hon. Lawrence J. Vilardo. Notification to Chambers of on-line civil case opening. (JD) (Entered: 06/16/2020) |
| 06/16/2020 | | AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution . (JD) (Entered: 06/16/2020) |
| 06/16/2020 | | Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at http://www.uscourts.gov/services-forms/forms . (JD) (Entered: 06/16/2020) |
| 06/16/2020 | <u>2</u> | Summons Issued as to NU Era Towing and Service, Inc. (JD) (Entered: 06/16/2020) |
| 06/25/2020 | <u>3</u> | SUMMONS Returned Executed by Faith Labadie. NU Era Towing and Service, Inc. served on 6/22/2020, answer due 7/13/2020. (Andrews, Seth) (Entered: 06/25/2020) |
| 07/13/2020 | <u>4</u> | Letter filed by NU Era Towing and Service, Inc. as to NU Era Towing and Service, Inc. <i>Letter to Hon. Vilardo Accompanying Stipulation to Extend Time to Answer</i> . (Gerber, Daniel) (Entered: 07/13/2020) |
| 07/13/2020 | <u>5</u> | STIPULATION <i>Extending Time to Answer</i> by NU Era Towing and Service, Inc.. (Gerber, Daniel) (Entered: 07/13/2020) |
| 07/13/2020 | <u>6</u> | NOTICE of Appearance by Daniel W. Gerber on behalf of NU Era Towing and Service, Inc. (Gerber, Daniel) (Entered: 07/13/2020) |

| | | |
|------------|-----------|---|
| 07/14/2020 | <u>7</u> | TEXT ORDER re <u>5</u> Stipulation filed by NU Era Towing and Service, Inc., IS HEREBY SO ORDERED. Answer due on or before 8/12/2020. Issued by Hon. Lawrence J. Vilardo on 7/14/2020. (RFI) (Entered: 07/14/2020) |
| 07/15/2020 | | ATTENTION CORPORATION PLAINTIFFS/DEFENDANTS: All Corporate Disclosure Statements pursuant to Fed.R.Civ.7.1(b) are to be filed within seven(7) days of this notice. (MD) (Entered: 07/15/2020) |
| 07/22/2020 | <u>8</u> | NOTICE of Appearance by Aaron Jacob Aisen on behalf of NU Era Towing and Service, Inc. (Aisen, Aaron) (Entered: 07/22/2020) |
| 07/22/2020 | <u>9</u> | Corporate Disclosure Statement by NU Era Towing and Service, Inc.. (Aisen, Aaron) (Entered: 07/22/2020) |
| 08/12/2020 | <u>10</u> | MOTION to Dismiss by NU Era Towing and Service, Inc.. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Aisen, Aaron) (Entered: 08/12/2020) |
| 08/13/2020 | 11 | TEXT REFERRAL ORDER (DISPOSITIVE) - Hon. Leslie G. Foschio, United States Magistrate Judge, is hereby designated to act in this case as follows: Pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), all pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including but not limited to: (1) conduct of a scheduling conference and entry of a scheduling order pursuant to Fed. R. Civ. P. 16, (2) hearing and disposition of all non-dispositive motions or applications, (3) supervision of discovery, and (4) supervision of all procedural matters involving the aforementioned or involving the preparation of the case or any matter therein for consideration by the District Judge. The Magistrate Judge shall also hear and report upon dispositive motions for the consideration of the District Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. The parties are encouraged to consider the provisions of 28 U.S.C. § 636(c) governing consent to either partial or complete disposition of the case, including trial if necessary, by the Magistrate Judge. Consent forms are available from the office of the Magistrate Judge or the office of the Clerk of Court. IT IS SO ORDERED. Issued by Hon. Lawrence J. Vilardo on 8/13/2020. (CMD) (Entered: 08/13/2020) |
| 08/17/2020 | 12 | TEXT ORDER re <u>10</u> MOTION to Dismiss filed by NU Era Towing and Service, Inc. Responses due by 9/16/2020. Replies due by 10/1/2020. Oral argument at the discretion of the court. Issued by Hon. Leslie G. Foschio on 8/17/2020. (SDW) (Entered: 08/17/2020) |
| 09/16/2020 | <u>13</u> | MEMORANDUM in Opposition re <u>10</u> MOTION to Dismiss filed by Faith Labadie. (Andrews, Seth) (Entered: 09/16/2020) |
| 10/01/2020 | <u>14</u> | REPLY/RESPONSE to re <u>13</u> Memorandum in Opposition to Motion, <u>10</u> MOTION to Dismiss filed by NU Era Towing and Service, Inc.. (Attachments: # <u>1</u> Certificate of Service)(Aisen, Aaron) (Entered: 10/02/2020) |
| 09/30/2021 | <u>15</u> | NOTICE of Withdrawal of Attorney: Aaron J. Aisen no longer appearing for Defendant NU Era Towing and Service, Inc.. CLERK TO FOLLOW UP. (Aisen, Aaron) (Entered: 09/30/2021) |

| | | |
|------------|-----------|---|
| 06/14/2022 | <u>16</u> | REPORT AND RECOMMENDATIONS re <u>10</u> Defendant's MOTION to Dismiss filed by NU Era Towing and Service, Inc. should be GRANTED; the Complaint should be DISMISSED with prejudice and without leave to replead. The Clerk of Court should be directed to close the file. Objections due fourteen days from receipt. Signed by Hon. Leslie G. Foschio on 06/14/2022. (TAH) (Entered: 06/14/2022) |
| 06/23/2022 | <u>17</u> | MOTION for Extension of Time to File Response/Reply by Faith Labadie.(Andrews, Seth) (Entered: 06/23/2022) |
| 06/24/2022 | 18 | TEXT ORDER granting <u>17</u> MOTION for Extension of Time to File Response/Reply filed by Faith Labadie. Objections to R&R due by 7/12/2022. Responses due by 8/2/2022. Replies due by 8/16/2022. SO ORDERED. Issued by Hon. Lawrence J. Vilardo on 6/24/2022. (RFI) (Entered: 06/24/2022) |
| 07/12/2022 | <u>19</u> | OBJECTION to <u>16</u> Report and Recommendations by Faith Labadie. (Andrews, Seth) (Entered: 07/12/2022) |
| 07/13/2022 | 20 | TEXT ORDER re <u>19</u> Objection filed by Faith Labadie. Response due by 8/3/2022. Reply due by 8/17/2022. If necessary, the Court will schedule oral argument at a later time. SO ORDERED. Issued by Hon. Lawrence J. Vilardo on 7/13/2022. (EK) (Entered: 07/13/2022) |
| 08/03/2022 | <u>21</u> | REPLY/RESPONSE to re <u>19</u> Objection to Report and Recommendations filed by NU Era Towing and Service, Inc.. (Gerber, Daniel) (Entered: 08/03/2022) |
| 08/23/2022 | <u>22</u> | DECISION & ORDER granting <u>10</u> Motion to Dismiss; adopting <u>16</u> Report and Recommendations. The Clerk of the Court shall enter judgment for the defendant and close this case. SO ORDERED. Signed by Hon. Lawrence J. Vilardo on 8/23/2022. (RFI) Clerk to Follow up (Entered: 08/23/2022) |
| 08/24/2022 | <u>23</u> | JUDGMENT in favor of NU Era Towing and Service, Inc. against Faith Labadie. Signed by Mary C. Loewenguth, Clerk of Court on 8/24/22. (SG) (Entered: 08/24/2022) |
| 09/22/2022 | <u>24</u> | NOTICE of Appearance by Brian L. Bromberg on behalf of Faith Labadie (Bromberg, Brian) (Entered: 09/22/2022) |
| 09/22/2022 | <u>25</u> | NOTICE OF APPEAL as to <u>22</u> Order on Motion to Dismiss,, Order on Report and Recommendations, <u>23</u> Judgment by Faith Labadie. Filing fee \$ 505, receipt number ANYWDC-4681210. (Attachments: # <u>1</u> Exhibit A -- Report and Recommendation, # <u>2</u> Exhibit B -- Decision and Order adopting Report and Recommendation, # <u>3</u> Exhibit C -- Judgment Dismissing Case, # <u>4</u> Certificate of Service)(Bromberg, Brian) (Entered: 09/22/2022) |
| 09/23/2022 | | Pursuant to Local Rule 12.1 of the US Court of Appeals for the Second Circuit, Forms C and D must be completed within 14 days after the filing of a notice of appeal. Forms C and D can be obtained at www.ca2.uscourts.gov . (SG) (Entered: 09/23/2022) |
| 09/23/2022 | | Within 14 days of filing the Notice of Appeal, the appellant is required to electronically file with the District Court an index of filed documents it wishes the Court of Appeals to consider, called Designation of Record on Appeal. After receipt, the Clerks Office will certify and transmit the index to the Circuit. (SG) (Entered: 09/23/2022) |

| PACER Service Center | | | |
|------------------------|---------------|-------------------------|-----------------------|
| Transaction Receipt | | | |
| 10/06/2022 17:19:56 | | | |
| PACER Login: | bribrom0893 | Client Code: | Lovelace |
| Description: | Docket Report | Search Criteria: | 1:20-cv-00722-LJV-LGF |
| Billable Pages: | 4 | Cost: | 0.40 |